

1 DAVID CHIU, State Bar # 189542
2 City Attorney
3 YVONNE R. MERE, State Bar # 173594
4 Chief Deputy City Attorney
5 SARA J. EISENBERG, State Bar # 269303
6 Chief of Complex & Affirmative Litigation
7 OWEN J. CLÉMENTS, State Bar # 141805
8 JAIME M. HULING DELAYE, State Bar # 270784
9 JOHN H. GEORGE, State Bar # 292332
10 Deputy City Attorneys
11 Fox Plaza
12 1390 Market Street, Sixth Floor
13 San Francisco, CA 94102
14 Telephone: 415.554.3597
15 jaime.hulingdelaye@sfcityatty.org

16 *Attorneys for Plaintiff The People of the State of
17 California, acting by and through San Francisco
18 City Attorney David Chiu*

19 [Additional counsel appear on signature page.]

20 UNITED STATES DISTRICT COURT
21 NORTHERN DISTRICT OF CALIFORNIA

22 SAN FRANCISCO DIVISION

23 THE CITY AND COUNTY OF SAN
24 FRANCISCO, CALIFORNIA and THE PEOPLE
25 OF THE STATE OF CALIFORNIA, Acting by
26 and through San Francisco City Attorney DAVID
27 CHIU,

28 Plaintiffs,

v.

PURDUE PHARMA L.P., et al.

Defendants.

Case No. 3:18-cv-07591-CRB-JSC

**THE PEOPLE'S RESPONSES TO
WALGREENS' OBJECTIONS TO THE
DECLARATION OF SWATI PATEL,
PHARM.D.**

Hon. Charles R. Breyer

1 Walgreens offers two objections to the Declaration of Swati Patel, Pharm.D. Neither are
 2 persuasive.

3 As an initial matter, Walgreens seeks to exclude Dr. Patel's testimony because she was
 4 not included on the People's initial witness list. Walgreens' argument omits several key facts.
 5 First and foremost, Dr. Patel is on *Walgreens*' witness list, and her inclusion in this case comes as
 6 no surprise. Walgreens even singled Dr. Patel out in its opening statement with heavily edited and
 7 misleading excerpts from her deposition. It was clear that both sides would have the opportunity
 8 to question her in this trial, and Walgreens is not prejudiced by the fact that these questions will
 9 now be asked in the People's case-in-chief as opposed to Walgreens' defense. Also omitted from
 10 Walgreens' objections is the fact that, in its own witness list, Walgreens reserved the right to "call
 11 to testify at trial live or by deposition any witness identified on any other party's witness
 12 list." Doc. 1243 at 2. Walgreens offers no justification for its argument that the People should be
 13 precluded from exercising the precise right that Walgreens (and the People) expressly reserved.
 14 See Doc. 1242 at 27 ("Plaintiff also reserves the right to supplement and/or amend its [witness]
 15 list with any witnesses identified on any party's witness lists . . ."). There is none, and the People
 16 properly amended their witness list on May 4 to include Dr. Patel.

17 Walgreens' two foundation objections are also misplaced, and she has made minor
 18 modifications to her declaration to explain why. First, Walgreens claims that Dr. Patel has no
 19 foundation to compare Zuckerberg Outpatient pharmacy to Walgreens. But as Dr. Patel explains,
 20 her knowledge of relevant chain pharmacy practice is based on her "many years interacting with
 21 retail chain pharmacies" and her own previous experience working for one. Second, as Dr. Patel
 22 now spells out, her characterizations of Walgreens' rhetoric are properly based on her own
 23 observations from her deposition. Patel Decl. ¶ 2 ("In my deposition, Walgreens appeared to
 24 compare ZSFG's pharmacies to Walgreens.").

25 Walgreens' objections should be overruled.

26

27

28

1 DATED: May 9, 2022

2 Respectfully submitted,

3 David Chiu
4 City Attorney
5 Yvonne R. Mere
6 Sara J. Eisenberg
7 Owen J. Clements
Jaime M. Huling Delaye
John H. George
Deputy City Attorneys
Fox Plaza
1390 Market Street, Sixth Floor
San Francisco, CA 94102
Telephone: 415.554.3957
jaime.hulingdelaye@sfcityatty.org

LIEFF CABRASER HEIMANN &
BERNSTEIN, LLP

/s/ Kevin R. Budner

Elizabeth J. Cabraser
Richard M. Heimann
Mark P. Chalos
Paulina do Amaral
Kevin R. Budner
Michael Levin-Gesundheit
Jacob Polin
Miriam Marks
Ian Bensberg
LIEFF CABRASER HEIMANN &
BERNSTEIN, LLP
275 Battery Street, 29th Floor
San Francisco, California 94111-3339
Telephone: 415.956.1000
Facsimile: 415.956.1008
kbudner@lchb.com

13 Paul J. Geller
14 Mark J. Dearman
Dorothy P. Antullis
15 ROBBINS GELLER RUDMAN & DOWD
LLP
16 120 East Palmetto Park Road, Suite 500
Boca Raton, FL 33432
Telephone: 561/750-3000
561/750-3364 (fax)
pgeller@rgrdlaw.com

Aelish M. Baig
Hadiya K. Deshmukh
ROBBINS GELLER RUDMAN & DOWD
LLP
Post Montgomery Center
One Montgomery Street, Suite 1800
San Francisco, CA 94104
Telephone: 415/288-4545
415/288-4534 (fax)
aelishb@rgrdlaw.com

19 Louise Renne
20 RENNE PUBLIC LAW GROUP
350 Sansome Street, Suite 300
21 San Francisco, CA 94104
Telephone: 415/848-7240
415/848-7230 (fax)
lrenne@publiclawgroup.com

23
24 Thomas E. Egler
Carissa J. Dolan
ROBBINS GELLER RUDMAN & DOWD
LLP
655 West Broadway, Suite 1900
San Diego, CA 92101
Telephone: 619/231-1058
619/231-7423 (fax)
tome@rgrdlaw.com

25 Kevin Sharp
SANFORD HEISLER SHARP, LLP
611 Commerce Street, Suite 3100
26 Nashville, TN 37203
Telephone: 615/434-7000
615/434-7020 (fax)
ksharp@sanfordheisler.com

Jennie Lee Anderson
Paul Laprairie
ANDRUS ANDERSON LLP
155 Montgomery Street, Suite 900
San Francisco, CA 94104
Telephone: 415/986-1400
415/986-1474 (fax)
jennie@andrusanderson.com

1 David S. Casey, Jr.
2 Gayle M. Blatt
3 Alyssa Williams
4 CASEY GERRY SCHENK FRANCAVILLA
5 BLATT & PENFIELD LLP
6 110 Laurel Street
7 San Diego, CA 92101-1486
8 Telephone: 619/238-1811
9 619/544-9232 (fax)
10 dcasey@cglaw.com
11 gmb@cglaw.com
12 awilliams@cglaw.com

13 Paul F. Novak
14 Tiffany Ellis
15 WEITZ & LUXENBERG, P.C.
16 24th Floor, The Fisher Building
17 3011 W. Grand Boulevard
18 Detroit, Michigan 48202
19 Tel: (313) 800-4170
20 pnovak@weitzlux.com
21 tellis@weitzlux.com

22 *Attorneys for Plaintiff The People of the State of California, acting by and through San
23 Francisco City Attorney David Chiu*

24 Jayne Conroy (*pro hac vice*)
25 Andrea Bierstein (*pro hac vice*)
26 Ellyn Hurd (*pro hac vice*)
27 Justin Presnal (*pro hac vice*)
28 Tom Sheridan (*pro hac vice*)
SIMMONS HANLY CONROY LLC
112 Madison Avenue, 7th Floor
New York, NY 10016
(212) 784-6400
(212) 213-5949 (fax)
jconroy@simmonsfirm.com
abierstein@simmonsfirm.com
ehurd@simmonsfirm.com
jpresnal@simmonsfirm.com
tsheridan@simmonsfirm.com

Edward Chapin
SANFORD HEISLER SHARP, LLP
655 West Broadway, Suite 1700
San Diego, CA 92101
Telephone: 619/577-4253
619/577-4250 (fax)
echapin2@sanfordheisler.com

Ellen Relkin
WEITZ & LUXENBERG P.C.
700 Broadway
New York, NY 10003
Telephone: 212/558-5500
212/344-5461 (fax)
erelkin@weitzlux.com

Peter J. Mougey (*pro hac vice*)
Page A. Poerschke (*pro hac vice*)
Laura S. Dunning (*pro hac vice*)
Jeff Gaddy (*pro hac vice*)
LEVIN, PAPANTONIO, RAFFERTY,
PROCTOR, BUCHANAN, O'BRIEN, BARR
& MOUGEY, P.A.
316 S. Baylen St., Ste. 600
Pensacola, FL 32502
(850) 435-7068
pmougey@levinlaw.com
ppoerschke@levinlaw.com
ldunning@levinlaw.com
jgaddy@levinlaw.com

MDL Co-Lead, Plaintiff Executive Committee Counsel